LESSEE ADVISORY
May 2009

Spill Prevention Control and Countermeasure (SPCC) Plan Requirements

I. Statement of Purpose

This Lessee Directive is intended to notify lessees of pending rule changes for SPCC Plan regulations and to reiterate the need for an SPCC Plan for all lessees with oil operations and storage on Maryland Port Administration (MPA) Property.

II. Background

As outlined in all MPA lease agreements, lessees are required to comply with all Federal, State and Local laws and regulations.

An SPCC Plan is required for all facilities with a total aboveground storage tank (AST) capacity exceeding 1,320 gallons; or the underground storage tank (UST) capacity exceeds 42,000 gallons AND the facility can be reasonably expected to discharge oil into or upon the navigable waters of the United States. (see section IV, part B for more on USTs).

A timeline is provided for facilities to develop and implement a SPCC Plan. Facilities that had started operations on or before August 16, 2002 are to maintain existing SPCC Plans and make the necessary amendments no later than November 20, 2009. Facilities that started operations between August 16, 2002 and November 20, 2009 are to prepare and implement an SPCC Plan no later than November 20, 2009. Facilities that start operations after November 20, 2009 are to prepare and implement an SPCC Plan before you begin operations.

40 CFR part 112 section 20 requires along with the SPCC Plan, owners and operators of a facility that could cause *substantial harm* to the environment by discharging oil into navigable waters or adjoining shoreline are required to prepare and submit a Facility Response Plan (FRP) to the EPA. Two methods provided by the EPA to determine if a facility may cause substantial harm are through a self-selection process or a determination from the Regional Administrator. The Regional Administrator for lessees at Maryland Port Administration facilities is the Maryland Department of the Environment (MDE). The self-selection process to determine substantial harm must meet one or more of the following "substantial harm criteria":

- A facility has a total oil storage capacity greater than or equal to 42,000 gallons and performing overwater oil transfers; or

- a facility has a total oil storage capacity of one million gallons or greater and one of the following is true:

- a facility does not have secondary containment for each aboveground storage tank sufficiently large to contain the capacity of the largest aboveground oil storage tank within each storage area plus allow room for precipitation;

- The facility is located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments.

- discharge from the facility will shut down a public drinking water intake system; and

- in the past five years a facility has had a reportable spill of oil greater than or equal to 10,000 gallons.

The Regional Administrator will use similar factors to make its determination on a lessee's facilities potential to cause substantial harm to the environment. The Regional Administrator will notify the facility of its findings.

In addition to the requirement under 40 CFR Part 112, lessee's facilities that have a combined AST storage capacity of 10,000 gallons or more of fresh oil and/or a used oil storage capacity of 1,000 gallons or more or a mobile refuelers with a minimum of 500 gallon capacity shall obtain an Oil Operations Permit from the State of Maryland, as required under COMAR 26.10.01.07

III. Directive Statement

This directive establishes the MPA policy regarding the requirement for lessees to develop and maintain an SPCC Plan this includes the utilization of sufficient secondary, or active containment measures for fuel storage areas, mobile refuelers, and fuel transfer areas.

IV. Standards

A. Lessees of MPA property, who own or operate ASTs and/or mobile refuelers, must develop a SPCC Plan if the total volume of oil in containers 55 gallons or greater is more than 1,320 gallon. The capacities of permanently closed ASTs that previously contained oil are excluded and not counted toward the total capacity.

B. Lessees of MPA property who have completely buried tanks subject to all of the technical requirements of 40 CFR Part 280 and 281 do not have to include their total underground storage capacity in the calculation of the 42,000 gallon

threshold. Permanently closed USTs that previously contained oil are excluded from the total underground storage capacity. All UST locations must be marked on a facility diagram for the SPCC Plan.

C. Lessees of MPA property with ASTs, USTs, and mobile refuelers that have developed an SPCC program pursuant to the requirements of 40 CFR Part 112 must include the following:

1. Secondary containment for all tanks and mobile refuelers,

2. A written SPCC Plan that includes:

   a. A description of the facility with a summary for each oil tank and container.
   b. Spill prevention measures that include training of personnel, inspections, and testing procedures.
   c. The type of secondary containment used to contain a discharge.
   d. Control measures for containing a discharge from a tank or connecting piping. Examples of control measures can be found in 40 CFR 112.12.
   e. Counter measures taken if a discharge were to occur. This includes clean-up procedures that follow requirements found under 40 CFR Part 109, a commitment of manpower, clean-up equipment and materials, and spill reporting procedures.
   f. An up to date list of names, addresses and phone numbers of personnel who qualify as emergency coordinators.

3. The SPCC Plan will need to be reviewed and amended whenever there is a change in facility design, construction, operation, or maintenance that materially affects the facility's spill potential. Amendments will also be necessary if it is determined that any information contained within the Plan does not meet the requirements of 40 CFR 112 to prevent and contain discharges from the facility. The SPCC Plan must be reviewed *at least once every five years* and amended as needed.

4. A Professional Engineer must certify the SPCC Plan, as well as any amendments made to the plan. If the total oil capacity for the facility is less than 10,000 gallons the SPCC Plan can be self certified by the lessee. The lessee is required to keep a copy of the SPCC Plan on site.

5. Lessees will provide certification to the Safety, Envrironmental and Risk Management (SERM) department that the SPCC Plan had been developed and implemented. The plan will also need to be made available to local police departments, fire departments, hospitals, and State and local response teams that would respond to an emergency situation for the lessee.

D. Lessees of MPA property that meet the requirements listed above must follow all requirements under 40 CFR Part 112.

V. Conclusions and Recommendations

The SPCC Plan will need to be reviewed and amended whenever there is a change in facility design, construction, operation, or maintenance that materially affects the facility's spill potential. Amendments will also be necessary if it is determined that any information contained within the Plan does not meet the requirements of 40 CFR 112 to prevent and contain discharges from the facility. The SPCC Plan must be reviewed *at least once every five years* and amended as needed.

VI. References

A. Code of Federal Regulations 40 CFR 112

B. Tenant Directive MTN: 212.1

C. COMAR 26.13.05.04

D. COMAR 26.10.01.07

E. US EPA Revised Spill Prevention, Control, and Countermeasure Rule, Oil Program Fact Sheet, March 9, 2006

F. US EPA, Oil Pollution Prevention; Non-Transportation Related On-Shore Facilities; Spill Prevention, Control, and Countermeasure Rule – Final Amendments; Final Rule: Delay of effective date and request for comment, February 3, 2009

G. US EPA, Oil Pollution; Spill Prevention, Control, and Countermeasure Rule Requirements – Amendments; Final rule, December 5, 2008

H. US EPA Who Must Prepare Facility Response Plans, Oil Program, March 9, 2006

I. US EPA Substantial Harm Facilities, Oil Program, March 9, 2006